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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of the Pay Telephone)	
Reclassification and Compensation)	CC Docket No. <u>96-128</u>
Provisions of the)	
Telecommunications Act of 1996)	
)	
RBOC/GTE/SNET Payphone Coalition)	NSD File No. L-99-34
Petition for Reconsideration)	

AT&T Comments on Petitions for Declaratory Ruling, Reconsideration and/or Clarification

Pursuant to the Commission’s Public Notice, AT&T Corp. (“AT&T”) submits the following comments on the petitions for declaratory ruling, reconsideration and/or clarification submitted by WorldCom and Global Crossing relating to the Commission’s Second Order on Reconsideration (“Order”).

As an initial matter, AT&T strongly opposes Global Crossing’s suggestion (at 3) that the Commission should adopt “specific timing surrogates” for determining whether payphone calls are compensable. This is an issue that has been raised frequently in the past but has always been roundly rejected –for good reason. First, the Act requires compensation for “completed” calls, not for attempted calls that have been off-hook for any specific period of time. Second, the industry already has a mechanism to determine whether calls are completed: answer supervision. Third, many (if not most) carriers’ payphone tracking systems, including AT&T’s, do not have mechanisms that would allow them to treat as compensable calls that are “off hook” for any designated period. Accordingly, this ill-advised request should be flatly rejected again.

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In contrast, AT&T strongly agrees with WorldCom (at 2-4) that calls for which the first switch-based carrier receives answer supervision from a switch-based reseller's ("SBR's") switch should be allowed to be treated as completed calls, at least in cases where the SBR does not have its own systems for tracking completed calls or where the SBR decides that the costs of maintaining such systems are greater than any cost savings likely to result from such tracking. As AT&T described in its own Petition for Clarification (at 2-4), once the first switch-based carrier receives answer supervision from the switch-based reseller, it loses track of the call and cannot tell if it is completed.

Under the Commission's new rules, however, the first switch-based carrier is required to track and remit compensation to PSPs on behalf of its SBRs if the latter do not have a direct agreement with PSPs to do so for themselves. But the first carrier cannot track calls routed through the SBR's switch unless the reseller itself has the ability to: (i) determine whether calls from its switches are completed to an end user and (ii) transmit such data to the first carrier in a usable format. Thus, in the absence of such information, the first carrier's only choice is to rely on its own answer supervision data.

Critically, however, the Order does not *require* SBRs to pay for calls that are not completed to end users through their switches. If an SBR has (or develops) the capability to track its own calls and to provide its call completion data to the first switch-based carrier, it has the option to do so.¹ In such cases, the SBR is permitted to provide the necessary data to the first carrier for it to include in its quarterly compensation payments

¹ The Order (¶¶ 2,18) properly provides, however, that the first switch-based carrier is entitled to recover any costs it may incur as a result of its additional obligations to track and remit payphone compensation on behalf of SBRs. This includes not only the actual compensation amounts that it pays on behalf of a reseller but also all systems and administrative costs related to such payments. In order to assure that the first carrier is reasonably protected from such additional costs, it is also appropriate for it to require that the SBR indemnify it against any claims from PSPs that may result from its reliance on the SBR's data.

to PSPs (together, of course, with a payment in the amount of the quarterly compensation amounts due from the SBR, unless the carriers have agreed on a different process). Thus, the current rules always permit SBRs the opportunity to choose the lower-cost alternative.

AT&T also agrees with both WorldCom (at 5-6) and Global Crossing (at 8-9) that the Commission's new rule on data reporting requirements could possibly be read to impose unreasonable administrative and cost burdens on IXCs.² In particular, there is no basis to require such carriers to provide call-specific data on calls that do not receive answer supervision.

Given the potential dislocations that could result from the Commission's new rules, AT&T recently participated in meetings held among many of the largest PSPs and IXCs to address the practical issues that arise from the Commission's new rules. At that meeting, a general consensus was reached on principles that could be used to refine the Commission's rules to address both the carrier liability and information reporting issues described above.³ Those principles lay out a reasonable process that carriers, PSPs and SBRs can use to create the business and legal relationships necessary to implement the Commission's new policy, which changes the payment responsibility for payphone calls routed through SBRs' switches. They also define in detail a set of data reporting requirements that PSPs can use to track the compensation payments they receive (whether from first switch-based carriers or SBRs) and that first switch-based carriers can reasonably implement.

² See also AT&T's Petition at 4-7.

AT&T understands that a new proposed rule embodying these principles will be submitted by APCC with its comments. Based upon its most recent discussions with APCC representatives, AT&T generally supports the concepts in this proposal as a reasonable means of accommodating all parties' legitimate interests. From AT&T's perspective, the concepts reasonably define the types of contract arrangements that are appropriate when an SBR assumes responsibility for tracking its own calls and the types of information PSPs reasonably need to review their compensation payments. AT&T reserves the right to comment on the specific language in the APCC proposal and other parties' comments on that proposal.

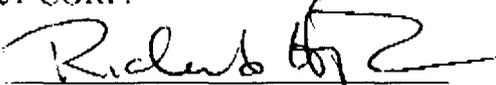
In this regard, AT&T notes two points that it believes are implicit in the proposed rules and should be clear to all parties. First, it would be excessively costly and unnecessary to develop systems and processes to provide PSPs with call-specific data on individual calls that do not receive answer supervision in their networks. Thus, first switch-based resellers should not be required to provide such data, especially since other options are available, such as estimates of the completion rates for various types of compensable calls. Second, if a PSP agrees to accept compensation payments directly from a reseller, it should not only release the first switch-based carrier from liability for

³ These principles also address the specific issues raised by WorldCom (at 6) (types of calls for which data must be provided) and Global Crossing (at 10-12) (treatment of private agreements between PSPs and SBRs and possible "billing" by PSPs to carriers).

calls routed to that SBR, the PSP should also be responsible to remit to the first carrier any payments the latter may have made erroneously on behalf of that SBR.

Respectfully submitted,

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